



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,  
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED  
POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property  
Chamber Rules of Procedure 2017 ("the Procedure Rules")**

**in connection with**

**12 Ailsa Court, Hamilton ("the Property")**

**Case Reference: FTS/HPC/EV/21/2483**

**Anchor Properties, Beechfield House, Meikle Earnock Road, Hamilton ("the  
Applicant")**

**Martin Collins 12 Ailsa Court, Hamilton ("the Respondent")**

1. The Applicant lodged an application with the Tribunal seeking an eviction order in terms of Rule 109 of the Procedure Rules and Section 51 of the Private Housing Tenancies (Scotland) Act 2016. Part of a Notice to leave and section 11 notice were lodged with the application.
2. The Tribunal issued a request for further information on 9 November 2021. The Applicant was directed to provide a copy of the whole Notice to Leave, a copy of the whole section 11 notice and evidence that these notices had been served. They were also asked to clarify the Applicant's entitlement to bring the application, as a third party owns the property, and submit a mandate from the Applicant, authorising the letting agent to make the application on their behalf. The Applicant provided a response to the question about ownership, providing evidence of a connection between the owner and the Applicant. However, they did not provide the documents which had been requested. Further requests

were issued on 29 December 2021 and 31 January 2022 but no response has been received.

## **Decision**

3. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c ) which states that an application must be rejected if the Tribunal has “ good reason to believe that it would not be appropriate to accept the application.”

## **Reasons for Decision**

4. The Applicant submitted an application for an eviction order in terms of Rule 109 of the Rules. The Tribunal directed the Applicant to provide additional information and documentation. In particular, the Applicant was directed to provide a copy of the whole Notice to leave, the whole section 11 notice and evidence that these notices had been served or sent. The Applicant has failed to respond to several requests for these documents.
5. Rule 5 of the Procedure Rules states that an application “is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules.....105 to 111, as appropriate”. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”. Rule 109 requires an Applicant to lodge “a copy of the notice to leave given to the tenant” and a copy of the section 11 “notice given to the local authority”. The notices lodged with the application are incomplete. The Applicant has also failed to lodge complete copies of these notices and other documents in response to requests from the Tribunal in terms of Rule 5(3).
6. As the Applicant has failed to comply with Rules 5 and 109 of the Procedure Rules, the Legal Member is satisfied that there is good reason to believe that it would not be appropriate to accept the application. The application is rejected

on that basis.

**What you should do now**

If you accept the Legal Member's decision, there is no need to reply.

If you disagree with this decision –

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them. Information about the appeal procedure can be forwarded to you on request.

Josephine Bonnar, Legal Member  
1 March 2022